



Attached is a certificate of conference demonstrating that Plaintiffs have not been able to reach Defendants' attorney.

By whatever its proper denomination, Defendants' Filing is beyond the discretion of this Court to grant. This federal litigation involves federal rights of Plaintiffs that must be adjudicated in federal court, and the state case involves no matter involving the processes of state government. The parties of this litigation are plainly not the same as the parties in the state litigation. This case does not involve the same issues or issues controlled by those in the state litigation; therefore, this case should not be abstained from, dismissed, stayed, or abated. If Defendants' Filing is construed as an amended answer, it is late without leave of court, and it would erase Defendants' previous answer. Moreover, Defendants didn't request leave of court to amend their answer pursuant to the local rules. Also, the time to file amended answers ended pursuant to this Court's Scheduling order, on March 15, 2006 at 3:00 p.m. That was over seven months before Defendants filed Defendants' Filing.

#### CONCLUSION AND PRAYER

For the reasons stated above, and for the reasons detailed in the brief filed concurrently with this response, these proceedings should not be abstained from, stayed, abated, or dismissed. If Defendants' Filing is allowed as a "Plea in Abatement", that is to say a special dilatory answer, Plaintiffs' request that it replace Defendants' live amended answer and thus erase Defendants' previously pled denials, defenses, and admissions. Defendants' are represented by licensed counsel and they are without excuse for their frivolous filing of a Plea in Abatement in federal court. No extension of the time for Defendants' to file amendments to their pleadings should be given.

Whatever the decision, Plaintiffs request that the Court clarify the character and effect of Defendants' filing so Plaintiffs will have the information necessary to act on that filing, and so they can understand how Defendants' Filing has effected the nature of the live pleadings in this case. Without such clarification, Plaintiffs will be unable to ascertain Defendants' defenses, denials, and admissions, thus Plaintiffs will be unable to ascertain the issues that remain. That would work a prejudice against them.

Respectfully Submitted:



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325-893-4790



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2471 Private Road 2541  
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CERTIFICATE OF CONFERENCE

I certify that on November 6, 2006 I attempted to confer with Gary Brown about this filing. I called his office at 1:30 p.m. and was informed by the person who answered the phone that he was in court. I left my phone number and have not heard from him.

  
\_\_\_\_\_  
TSEPHANYAH HAWKINS  
3706 Private Road 2547  
Clyde, Texas 79510

*He later  
called  
and opposed*

**CERTIFICATE OF SERVICE**

Certification Date is **November 6, 2006**

I hereby certify that on the Certification Date given above, a true and correct copy of the foregoing PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR DISMISSAL, OR IN THE ALTERNATIVE, PLEA IN ABATEMENT AND PLAINTIFFS' MOTION TO STRIKE DEFENDANTS' PLEA IN ABATEMENT AND MOTION FOR CLARIFICATION was served by First Class United States Mail with the proper postage affixed addressed as follows:

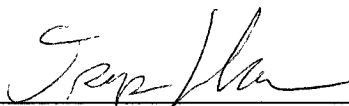
**Gary Brown**  
3041 South 7<sup>th</sup>  
Abilene, Texas 79605

I also hereby certify that true correct copies of the foregoing were served in person to the following parties on the Certification Date given above.

**Tsephanyah Hawkins**  
3706 Private Road 2547  
Clyde, Texas 79510

**Yahchanan Hawkins**  
3471 Private Road 2541  
Clyde, Texas 79510

**~ CERTIFIED BY ~**

  
\_\_\_\_\_  
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